

Net Zero, Energy and Transport Committee

21st Meeting, 2023 (Session 6)

Tuesday 13 June 2023

Cover note: The Packaging Waste (Data Reporting) (Scotland) Amendment Regulations 2023 (SSI 2023/160)

Title of Instrument: [The Packaging Waste \(Data Reporting\) \(Scotland\) Amendment Regulations 2023](#) (SSI 2023/160)

Type of Instrument: Negative

Laid Date: 25 May 2023

Circulated to Members: 25 May 2023

Meeting Date: 13 June 2023

Minister to attend meeting: No

Motion for annulment lodged: No

Drawn to the Parliament's attention by the Delegated Powers and Law Reform Committee? No

Reporting deadline: 6 September 2023

1. An electronic copy of the Regulations is available at:
<https://www.legislation.gov.uk/ssi/2023/160/contents/made>

2. Copies of the Scottish Government's Explanatory and Policy Notes are included in the **Annexe**.

Purpose

3. To correct minor errors and omissions in the Packaging Waste (Data Reporting) (Scotland) Regulations 2023 (the "data regulations"). The data regulations require producers of products to collect and/or report data on the amount

and type of packaging that they place on the market as part of Extended Producer Responsibility (EPR) for packaging.

Delegated Powers and Law Reform Committee consideration

4. At its meeting on 6 June 2023, the Delegated Powers and Law Reform Committee considered the instrument and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

- [Read the Official Report – 6 June 2023](#)
- [Read the Committee's report](#)

Procedure for Negative Instruments

5. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds).

6. Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument. If the motion is agreed to, the Parliamentary Bureau must then lodge a motion to annul the instrument for consideration by the Parliament. If that is also agreed to, Scottish Ministers must revoke the instrument. At present no motion to annul has been laid for this instrument.

7. Each negative instrument appears on a committee agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow correspondence to be entered into or a Minister or officials invited to give evidence. In other cases, the Committee may be content simply to note the instrument.

8. If no motion to annul has been laid then, at the conclusion of consideration of the instrument, the Committee will be invited that agree to make no recommendation in relation to the instrument.

Recommendation

9. The Committee is invited to consider any issues which it wishes to raise on the instrument.

Clerks
Net Zero, Energy and Transport Committee

Annexe

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made to correct minor errors in the Packaging Waste (Data Reporting) (Scotland) Regulations 2023 (S.S.I. 2023/7) (“the first Regulations”), to make further provision clarifying when a brand owner is a producer in relation to packaging, and to assign responsibility for certain packaging to packer/fillers, rather than brand owners, and to importers.

A partial Business Regulatory Impact Assessment of the effect that the first Regulations will have on business has been placed in the Scottish Parliament Information Centre. Copies can be obtained from the Scottish Government, Circular Economy Division, Area 3H South, Victoria Quay, Edinburgh EH6 6QQ, and online at legislation.gov.uk.

POLICY NOTE

THE PACKAGING WASTE (DATA REPORTING) (SCOTLAND) AMENDMENT REGULATIONS 2023

SSI 2023/160

The above instrument was made by the Scottish Ministers in exercise of the powers conferred by sections 18 and 58, and paragraphs 14, 22, and 33 of schedule 2, of the Regulatory Reform (Scotland) Act 2014 and all other powers enabling them to do so. The instrument is subject to the negative procedure.

Purpose of the instrument. To correct minor errors and omissions in the Packaging Waste (Data Reporting) (Scotland) Regulations 2023 (the “data regulations”). The data regulations require producers of products to collect and/or report data on the amount and type of packaging that they place on the market as part of Extended Producer Responsibility (EPR) for packaging.

Policy Objectives

The data regulations require producers of products to collect and/or report data about the packaging they place on the market in the course of 2023 to support introduction of Extended Producer Responsibility (EPR) for packaging, which the Scottish Government is bringing forward alongside the other UK administrations. (See the policy note for the data regulations, which were laid on 19 January 2023 and came into force on 28 February, for more details.)

Subsequent work with our partners in the other UK administrations as we continue to work to introduce packaging EPR, and industry scrutiny following the laying of the data regulations, has identified a number of necessary amendments to the data regulations and the analogous legislation that was laid in the other UK parliaments.

Working with the other administrations, we have developed this SSI, and analogous legislation to be made in the other nations of the UK, to address the required amendments. This will:

- Provide clarity to industry regarding producers’ reporting obligations;
- Ensure producers submit all the information required for calculating their 2024 obligations;
- Remove some potential loopholes in the data regulations;
- Ensure the reporting requirements are fully aligned with the digital system that producers will use to report their data.

Care has been taken to minimise inconvenience to producers. In the case where a reporting requirement is being added that is not present in the existing data regulations (for packaging imported into the UK and discarded by the importer), these data are already required to be collected under the data regulations and under the Producer Responsibility Obligations (Packaging Waste) Regulations 2007.

Consultation

Detailed consultation has been carried out as we have developed our policy on packaging EPR: see the policy note for the data regulations for details. The amendments set out in this SSI are being taken forward by all four UK administrations in response to stakeholder feedback.

Impact Assessments

A partial Business and Regulatory Impact Assessment (BRIA) was completed for the data regulations: see those regulations for details.

Financial Effects

The direct impact of this instrument on businesses is very limited because, as set out above, care has been taken not to require the reporting of data that are not already collected by business.

For the financial impacts of the data regulations and of packaging EPR more generally, see the policy note and partial BRIA associated with those regulations.

Scottish Government
Directorate for Environment and Forestry

22 May 2023

Scottish Government - Other documents

A [partial Business and Regulatory Impact Assessment](#) (BRIA) was completed for the Packaging Waste (Data Reporting) (Scotland) Regulations 2023 (SSI 2023/007).